

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION

UNITED STATES OF AMERICA

v.

NO. 5:20-CR-061-H

EMMANUEL QUINONES

FACTUAL RESUME

In support of Emmanuel Quinones's plea of guilty to the offense in Count Three of the indictment, Quinones, the defendant, Sarah Gunter, the defendant's attorney, and the United States of America (the government) stipulate and agree to the following:

ELEMENTS OF THE OFFENSE

To prove the offense alleged in Count Three of the indictment, charging a violation of 18 U.S.C. § 875(c), that is, Interstate Threatening Communications, the government must prove each of the following elements beyond a reasonable doubt:¹

First: That the defendant knowingly sent or transmitted a communication containing a threat to injure the person of another, as charged;

Second: the defendant transmitted the communication either with the purpose of issuing a true threat or with knowledge that the communication would be understood as a true threat, as defined in these instructions; and

Third: That the communication was sent in interstate or foreign commerce.

A "threat" is a serious statement expressing an intent to injure any person, which under the circumstances would cause apprehension in a reasonable person, as distinguished from mere idle or careless talk, exaggeration, or something said in a joking manner.

¹ Fifth Circuit Pattern Jury Instruction 2.39 (5th Cir. 2019) (modified).

STIPULATED FACTS

1. Emmanuel Quinones admits and agrees that on or about May 28, 2020, in the Lubbock Division of the Northern District of Texas, and elsewhere, he did knowingly and willfully transmit in interstate and foreign commerce a Facebook post containing a threat to injure the person of another, that is, defendant threatened to obtain firearms to “off racists and MAGA people.” In violation of Title 18, United States Code, Section 875(c).

2. On May 28, 2020, at about 6:34 a.m., Emmanuel Quinones posted the following on Facebook:

While a race riot erupted in Minneapolis the President literally retweeted a video of one of his supporters saying the only good Democrat is a dead Democrat. These people are PUSHING for America to rip itself to shreds. Disgusting. I'll tell you right now if you keep provoking regular people we'll make sure you never cross that line ever again. I guarantee it. #MountUp

3. On that same date, at 9:52 a.m., Quinones re-posted the below from Palmetto State Armory and above that post stated: “Gonna get some more of these to off racists and MAGA people.”



Palmetto State Armory

May 28 at 7:52 AM · 🌐

UPDATE ON ANGRY JOE LOWERS

It took a little longer than normal, but the ATF has given its blessing to the Angry Joe variance (the required approval of any new model lower we produce).

We are putting them in production now, and then sending them to anodizing - the final step before they ship out.

You can expect them to head your way in about 7 to 14 days.



4. The “Angry Joe Lower” is a stripped lower receiver for a .223/5.56 AR-15-style rifle.

5. Quinones admits that he knowingly sent or transmitted the above Facebook posts. Postings on Facebook are sent in interstate or foreign commerce because transmitting messages by means of the Internet is tantamount to moving messages across state lines and thus constitutes transportation in interstate commerce. *Cf. United States v. Runyan*, 290 F.3d 223, 239 (5th Cir. 2002) (holding that use of Internet, in and of itself, constitutes interstate transportation sufficient to satisfy the interstate commerce element

of 18 U.S.C. § 2251); *see United States v. Elonis*, 897 F. Supp.2d 335, 343-44 (E.D. Pa. 2012), *overruled on other grounds by Elonis v. United States*, 575 U.S. 723 (2015) (holding same in the context of 18 U.S.C. § 875(c)). Quinones admits that he transmitted the communication either with the purpose of issuing a true threat or with knowledge that the communication would be understood as a true threat.

6. On May 30, 2020, Quinones appeared across the street from a protest at 19th Street and University Avenue, Lubbock, Texas, over the recent death of George Floyd. Quinones was holding an assault rifle:



7. Lubbock Police Department (LPD) officers saw the crowd of protesters (approximately 100 persons) panic and began to approach Quinones. Quinones refused

to obey commands by an LPD officer to drop the rifle. Only when the LPD officer drew his pistol did Quinones drop the rifle. A person then tackled Quinones and LPD officers took Quinones and that person into custody.

8. On June 1, 2020, special agents of the Federal Bureau of Investigation and the United States Secret Service interviewed Quinones. When law enforcement arrived at Quinones's residence to interview him, there was a Taurus, Model 24/7 G2, .40 Smith and Wesson caliber, semi-automatic pistol, serial number SHN04743, positioned next to the door in plain view. Quinones indicated that he had it staged there in the event that his residence was attacked. Quinones allowed Secret Service agents to unload the firearm.

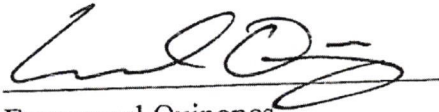
9. Quinones gave law enforcement consent to search his residence. Law enforcement recovered approximately 700 rounds of .223 ammunition and approximately 100 rounds of .40 caliber Smith and Wesson pistol rounds.

10. Quinones agrees that the following items should be forfeited to the United States: the Smith and Wesson, Model M&P 15, .223 caliber, semi-automatic rifle, serial number TH85241, the Taurus, Model 24/7 G2, .40 Smith and Wesson caliber, semi-automatic pistol, serial number SHN04743, approximately 700 rounds of .223 ammunition, and approximately 100 rounds of .40 caliber Smith and Wesson pistol rounds.

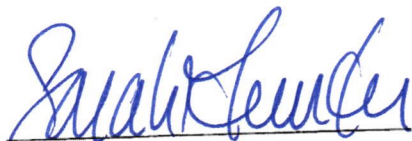
11. The defendant agrees that the defendant committed all the essential elements of the offense. This factual resume is not intended to be a complete accounting of all the facts and events related to the offense charged in this case. The limited purpose

of this statement of facts is to demonstrate that a factual basis exists to support the defendant's guilty plea to Count Three of the indictment.

AGREED TO AND STIPULATED on this 2nd day of September, 2020.

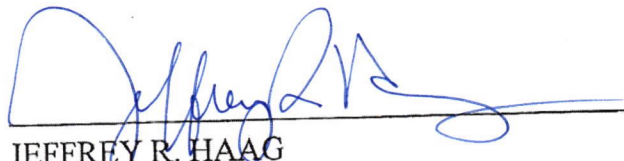


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Defendant



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